

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
MICHAEL MELENDEZ,

Plaintiff,

v.

9:06-CV-1419
(TJM)(DRH)

SGT. ALLEN; CO MITCHELL; J. MACDONALD, Inmate
Grievance Program Supervisor,

Defendants.

APPEARANCES:

MICHAEL MELENDEZ
Plaintiff, *pro se*

OFFICE OF THE ATTORNEY GENERAL
STATE OF NEW YORK
Counsel for the Defendants

DAVID R. HOMER, U.S. MAGISTRATE JUDGE

DECISION AND ORDER

By Decision and Order of this Court filed January 23, 2007, the defendants in this action were directed to respond to the claims set forth in *pro se* plaintiff Michael Melendez's second amended complaint which arose out of his confinement at Upstate Correctional Facility. Dkt. No. 83.¹ Those claims were ordered severed from an action commenced by plaintiff in the Southern District of New York and transferred to the Northern District. See Dkt. No. 78. Plaintiff's amended complaint in the Southern District named in excess of forty defendants and asserted numerous claims arising out of plaintiff's confinement in Sing Sing Correctional Facility as well as Upstate

¹ The three defendants were served with process during the pendency of this action in the Southern District and were represented in that action by the Office of the New York State Attorney General. See Dkt. Nos. 24, 43, 66. Counsel has not yet appeared in this District.

Correctional Facility.

Presently before the Court is a third amended complaint submitted by plaintiff for the Court's consideration.² Plaintiff states the ten page pleading sets forth only the claims which were transferred to this Court and, accordingly, names only the three defendants against whom this action is proceeding in this District. According to plaintiff, the proposed pleading is intended to simplify further proceedings in this District.

Based upon the foregoing, the Clerk is directed to file plaintiff's proposed "Third Amended Complaint" on the docket of this action. Defendants shall respond to the Third Amended Complaint no later than **March 21, 2007**.

WHEREFORE, it is hereby

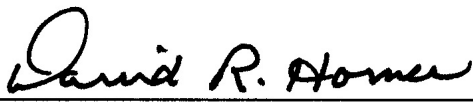
ORDERED, that the Clerk file plaintiff's "Third Amended Complaint" in this action, and it is further

ORDERED, that defendants shall respond to the Third Amended Complaint no later than **March 31, 2007**, and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the plaintiff, on counsel for defendants in the Southern District (see Dkt. No. 80) and on the Office of the New York State Attorney General in Albany, New York.

IT IS SO ORDERED.

Dated: March 16, 2007
Albany, New York


United States Magistrate Judge

² Plaintiff actually submitted two proposed pleadings, one of which is labeled "Amended Complaint" and the other one of which is labeled "Third Amended Complaint." The pleadings are otherwise identical.

